

REMARKS

The application has been amended and is believed to be in condition for allowance.

Claim 9 was indicated to be directed to allowable subject matter.

Claim 1 has been amended to include claim 9. Allowance of claim 1 is solicited.

The Official Action rejected claims 1-8 and 10-11 under 35 USC 102(b) as being anticipated by, or in the alternative, under 35 USC 103(a) as being obvious over GRUNDEI 5,649,928.

See in GRUNDEI that fixed plate 38 is not mounted on a tibial cut. See the GRUNDEI device does not rest on a surface of a tibial cut extending completely across the tibia. Rather, see the reliance on fixed plate 38 and positioning block 39 bearing against the tibia corner and upper side.

See the GRUNDEI device does not teach a lowermost surface of the displacement component bearing against the tibial cut. In GRUNDEI note the assembly being outside and alongside the tibia.

Claim 10 has been amended to patentably recite the invention. New claims are added which also patentably recite the invention. No new matter is entered by way of these amendments.

Reconsideration and allowance of all the claims are solicited.

Consider claim 10. See Figure 5 illustrating an ancillary component (20) comprising a centro-medullary rod (22) and a rod base (21), the centro-medullary rod (22) extending from a first surface of the rod base (21), the rod base comprising base mounting element (23, 25), the centro-medullary rod configured to be introduced into a femoral medullary canal. Although GRUNDEI teaches the rod, a rod base with a base mounting element, taken in combination with the remaining recitations is not disclosed.

See Figures 1-3 and 26-27 illustrating a displacement component (1), the displacement component comprising i) a tibial plate (2) configured to be supported on a surface of a tibial cut extending completely across the tibia with a lowermost surface of the displacement component bearing against the tibial cut and the displacement component being completely above the tibia, ii) a displacement element (see slide 5 and slide housing 3), the displacement element operable to displace the tibial plate and the rod base with respect to each other, and iii) an displacement component mounting element (fixing means 6) located on the displacement element, the displacement component mounting element engaging with the base mounting element to mount the rod base to the displacement element with the rod base being approximately 90 degrees to the tibial plate.

GRUNEI does not teach

- a tibial plate (2) configured to be supported on a surface of a tibial cut extending completely across the tibia with a lowermost surface of the displacement component bearing against the tibial cut,

- the displacement component being completely above the tibia,

- a displacement element operable to displace the tibial plate and the rod base with respect to each other, where an displacement component mounting element (fixing means 6) located on the displacement element engages with the base mounting element to mount the rod base to the displacement element with the rod base being approximately 90 degrees to the tibial plate.

GRUNEI does not teach (claim 12) the rod base is a plate with a second surface opposite the first surface, the second surface being generally planar, the base mounting element is an oblong passage with a central hole and diametrically opposed notches, the displacement component mounting element is a bayonet element for engagement with the oblong passage. Nor does GRUNEI teach that the tibial plate is generally planar with a lowermost planar surface configured to be supported on the tibial cut with a lowermost surface of the displacement component bearing against the tibial cut, and the displacement element is vertically aligned with the tibial axis.

GRUNEI does not teach (claim 13) that the displacement element comprises i) a slide housing (3) extending from an upper surface of the tibial plate, and ii) a slide (5) displaceable on the slide housing, the slide housing and the slide positioned completely over the tibial plate, the bayonet element is attached to the slide, and the rod base, when mounted on the slide, is positioned in vertical alignment with the tibial plate.

GRUNEI does not teach that the displacement element comprises i) a slide housing (3) extending from an upper surface of the tibial plate, and ii) a slide (5) displaceable on the slide housing, the slide housing and the slide positioned completely over the tibial plate, the rod base mounts to the slide, and the rod base, when mounted on the slide, is positioned in vertical alignment with the tibial plate.

Claim 15 is independent.

GRUNEI teaches a rod, but does not teach an ancillary component (20) comprising a centro-medullary rod (22) and an attachment part (21) located at a proximal end thereof, together with an displacement component (1) as recited.

More specifically, GRUNEI does not teach the displacement component comprising i) a connecting element removably engaging with the attachment part, ii) a tibial plate, and iii) a displacement element movably attached to the connecting element and attached at one end to the tibial plate, the displacement element operative to displace the connecting

element and the tibial plate with respect to each other between a first position, where the centro-medullary rod and tibial plate are separated by a first distance, and a second position, where the centro-medullary rod and tibial plate are separated by a second distance that is greater than the first distance.

Nor does GRUNEI teach the features of claims 16-18.

Allowance of all the claims is therefore solicited.

From the foregoing, it will be apparent that applicants have fully responded to the Official Action and that the claims as presented are patentable. In view of this, applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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